

Item No. S-2

Court on its own motion Vs. State of H.P. & others.

CWPIL No. 46 of 2023

12.12.2025. Present: Mr. Neeraj Gupta, Senior Advocate with Mr. Ajeet Pal Singh Jaswal, Advocate as Amicus Curiae.

Mr. Anup Rattan, Advocate General with Mr. Sidharth Jalta, Deputy Advocate General, for the respondents-State.

Mr. Devesh Kumar, Principal Secretary (Finance), is present in person.

In pursuance to the order dated 13.11.2025, affidavit on behalf of Additional Chief Secretary (Home) to the Government of Himachal Pradesh, has been filed, wherein it has been mentioned that the mode of recruitment in respect of the posts of Orderly, Peon and Driver, has inadvertently been mentioned as 'Daily Wage basis'. In paragraph 5 of the said affidavit, it has been mentioned that the recruitment/appointment on contract basis/outsource basis is no longer in existence, rather 'Job Trainee Policy, has now been introduced. The said affidavit has been filed in spite of the fact that on 13.11.2025, we had observed that sovereign functions at High Court Level and District level cannot be allowed to run on *ad hoc* basis, on daily wage/contract basis/outsource basis, as there has to be a direct control over the said persons under the relevant Rules.

2. The learned Advocate General now falls back on the letter dated 13.11.2025 to submit that

necessary steps with regard to the mode of recruitment in consultation with this Court shall be taken and intimated in due course. Needless to say, this fact was also noticed in paragraph-7 of the order dated 13.11.2025. Faced with this situation, the learned Advocate General was directed to file a proper affidavit clarifying this aspect.

3. Now, in the said affidavit, it has been clarified that the proposal for creation of post of Judgment Writer was not there, therefore, the said post was not created under the impression that this post is not required by this Court.

4. The said stand is totally untenable as on earlier occasions in 2022, the posts of Judgment Writers were provided to the newly created five posts of Additional District and Sessions Judges and Civil Judges vide notifications dated 28.09.2022, 03.09.2022 and 21.09.2022.

5. Regarding the creation of balance three posts of Additional District & Sessions Judges and 34 posts of Civil Judges, it has been mentioned that the matter has been taken up with the Finance Department for their approval/concurrence on the basis of proposal received from this Court and this matter, including the matter regarding the creation of post of Judgment Writer is to be placed before the Council of Ministers.

6. Regarding the vehicles to be provided to the newly appointed Judges, it has been mentioned that requisite proposal has been granted by the Government and the same has been conveyed to this Court vide letter dated 03.12.2025.

7. Similarly, regarding the creation of 20 posts of Law Clerk-cum-Research Assistants and the enhancement of their stipend from Rs. 25,000/- to Rs. 40,000/-, it has been submitted that the matter was taken up earlier with the Finance Department, who had expressed its inability to concur with the proposal. Now, in pursuance to the directions contained in the order dated 13.11.2025, the matter was again taken up with the Finance Department, which concurred to the proposal of this Court with the stipulation that the said Department may place the matter before the Council of Ministers for its consideration and taking an appropriate decision in this regard.

8. The issue relating to the payment of outstanding amount of domestic help and telephone expenses of retired Judges is hanging fire since 01.09.2021. In this regard, it has been submitted that as the winter session of H.P. Legislative Assembly, is going on at Dharamshala, all the authorities of the Government are out of station and pre-occupied with day-to-day functioning of the Legislative Assembly.

9. It is thus apparent that there is blatant defiance in not clearing the outstanding amount of domestic help and telephone expenses of retired Judges, in spite of the fact that way back on 02.06.2025, we had noticed that the Apex Court vide its order dated 15.04.2025 had held that the action under the Contempt of Courts Act, 1971 can be initiated, if needful is not done and the order dated 18.02.2025 is not implemented.

10. In spite of the matter being taken up time and again, the arrears have still not been paid and in the intervening period, three supplementary affidavits have been filed and the costs of Rs. 25,000/- have also been deposited.

11. We had already put the concerned Officer as such on notice regarding this issue vide order dated 03.11.2025 and directed him to come present. He was present on the last date, and is also present today, but the arrears have still not been cleared.

12. Mr. Devesh Kumar, Principal Secretary (Finance) to the Government of Himachal Pradesh, who is present in person, has tried to justify the inaction of the Government and submitted that regarding the issue of arrears as such, the proposal was sent on 02.12.2025, which was examined and concurred in principle on 05.12.2025. However, the matter has been placed before the Council of Ministers for further decision at Sr. No. 17

of the Schedule attached to the Rules of Business of the State of H.P. & Rule 2.4 (3) of the Himachal Pradesh Office Manual, 2011. It is submitted that in case the Administrative Department does not agree with the advice/opinion of the Finance Department, it can place the proposal before the Cabinet, which can overrule the opinion of the Finance Department and allow the proposal to proceed, as per the Rules.

13. The said plea is in contradiction to the averments contained in Paragraph 12 of the affidavit filed by the Additional Chief Secretary (Home) to the Government of Himachal Pradesh, which says that the Council of Ministers has already authorized the Hon'ble Chief Minister to take decision on the Departmental file. We thus do not understand any valid reason why the arrears have not been cleared.

14. Apparently, this Court is being taken for circuitous ride to avoid the payment of the arrears and now we have no option, but to sentence the Officer, for willful defiance of the Hon'ble Supreme Court's orders.

15. Faced with this situation, the learned Advocate General submits that the said order of sentencing be held in abeyance till the next date.

16. Though, even the widows of the Senior retired Judges as such are being deprived of the arrears, we accept the request of the learned Advocate General,

with the condition that in case the undertaking as such is not adhered to by the next date, the order will come into operation.

17. The affidavit of the Principal Secretary (Finance) to the Government of Himachal Pradesh, would also go on to show that as per Annexure-A appended with the affidavit, out of 224 proposals received from this Court and the Subordinate Judiciary, the Finance Department has accorded approval and concurrence in 154 proposals and remaining 29 proposals were not found fit for approval. It has further been mentioned that 39 proposals were returned for additional information/better justification and the matter in respect of these deferred proposals has not been closed. It has further been mentioned that the role of Finance Department is otherwise advisory in nature. The Finance Department has accorded approval for additionality of Rs 108.70 lakh under the various heads.

18. It has further been mentioned that the proposal dated 02.12.2025 of the Home Department for according sanction to the opening of 37 new courts (03 Courts of Additional District & Sessions Judge and 34 Courts of Civil Judge) alongwith creation of all supporting posts on regular basis was examined in the Finance Department and the Finance Department has concurred in principle with the said proposal.

19. This action is now being taken keeping in view the fact that we had directed the Registrar General of this Court vide order dated 13.11.2025 that the State would act on the request of the High Court to create the Courts at the said places within one week. Necessary communication was sent on 20.11.2025 and the three Courts of the Additional District and Sessions Judges at Hamirpur, Jogindernagar and Nalagarh have been requested accordingly. The balance 34 Courts of the Civil Judges with three at Sub Division, Una, two each at Bilaspur, Hamirpur, Mandi, Kullu, Chamba, Dharamshala, Kangra, Dehra, Solan and Nalagarh and one each at Rohru, Recong-Peoo, Ghumarwin, Amb, Sundernagar, Jogindernagar, Manali, Dalhousie, Palampur, Arki and Paonta Sahib have been requested in modification of the earlier recommendation passed on 20.09.2023. The same is on the basis of the data which is with this Court and pendency as such.

20. Both the affidavits are also silent regarding the time frame in which the sanction of 13 vehicles had to be obtained at District Level. Necessary sanction be also taken on the said aspect also.

21. In similar circumstances, in the matter regarding the creation of 20 posts of Law Clerks-cum-Research Assistants, the necessary sanction has been granted by the Finance Department and the matter

regarding the enhancement of remuneration of Law Clerks-cum-Research Assistants, would be placed before the Council of Ministers for further decision. It is further submitted that no other proposal has been received in the Finance Department .

22. Accordingly, we request the Registrar General to submit his comments and to give his counter affidavit regarding the proposals which have not been sent from this Court, the proposals which have been concurred and the proposals which have not been concurred, regarding the averments made in paragraph 4 of the affidavit filed on behalf of the Principal Secretary (Finance) to the Government of Himachal Pradesh and Annexure-A appended thereto, for proper verification.

List on **06.01.2026.**

(G.S. Sandhawalia)
Chief Justice.

(Jiya Lal Bhardwaj)
Judge

December 12, 2025
(hemlata)